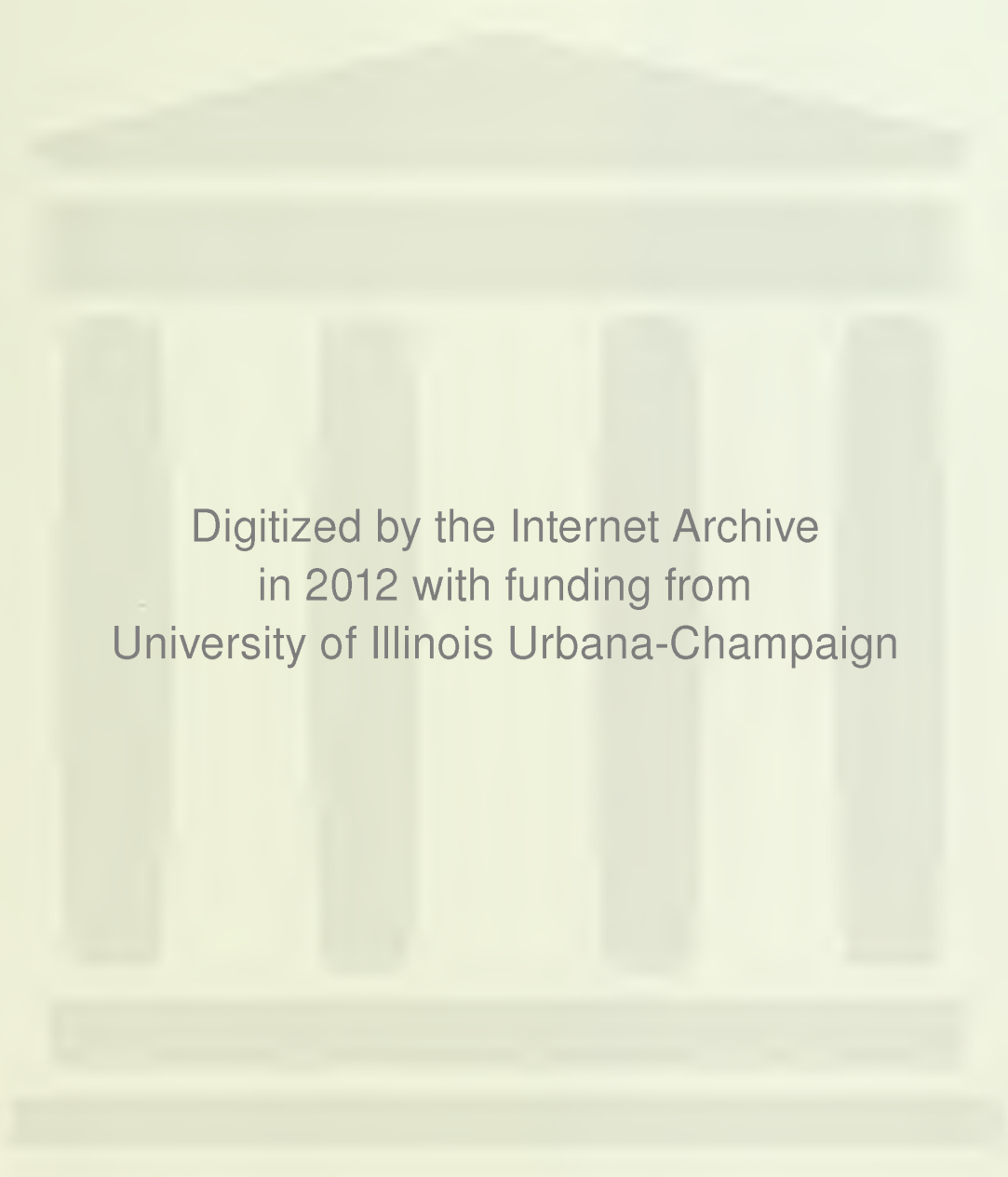


UNIVERSITY OF
ILLINOIS LIBRARY
AT URBANA CHAMPAIGN
BOOKSTACKS



Digitized by the Internet Archive
in 2012 with funding from
University of Illinois Urbana-Champaign

<http://www.archive.org/details/finingdrugoffend91138gill>

330
B385
1991:138 COPY 2

STX

Fining Drug Offenders: Who Pays?

Robert W. Gillespie
Department of Economics

The Library of the
MAY 16 1991
University of Illinois
of Urbana-Champaign

BEBR

FACULTY WORKING PAPER NO. 91-0138

College of Commerce and Business Administration

University of Illinois at Urbana-Champaign

April 1991

Fining Drug Offenders: Who Pays?

Robert W. Gillespie

Department of Economics
450 Commerce West
(217) 333-4586

Preliminary, not for quotation without approval. Comments welcome.

"Fining Drug Offenders: Who Pays?"

Abstract:

The heavy reliance upon law enforcement to control drug abuse has placed growing strains on prison capacity and corrections budgets. This has prompted a search for alternatives to incarceration for some drug offenders. One alternative is a fine, either alone or in conjunction with another penalty, e.g., probation or shorter incarceration.

However, fines are not an effective punishment unless they can be enforced. Such evidence as exists suggests that many drug fines are not paid in full and some are not paid at all. Consequently, sentencing policy could be better informed if the determinants of fine payment were known before a sentencing decision was made. This paper develops a theoretical framework for the determinants of fine payment and then tests this framework with a sample of 1,970 federal drug offenders sanctioned at least in part with a fine. The framework includes three broad concepts: Ability to Pay, Willingness to Pay, and Enforcement Effort. Each of these concepts is measured by a set of variables and the complete model is tested using multiple regression. The results give strong support to the model in terms of predicted signs and statistical significance. However, most of the explained variance is from policy controlled variables.

The primary conclusion of this study is that if fines are to be used to replace incarceration, at least marginally, payment of the fine need not be a barrier to this change, provided that fine sentencing takes proper account of the relevant variables. When these variables indicate that a fine of a size sufficient to constitute a just penalty will not be paid, then community service or incarceration should be considered as an alternative sentence.

I Background:

Over the last three decades the economic and social costs of illicit drug use has continuously increased. A significant portion is criminal justice system expenditures from enforcing our drug laws. In a period of severe budgetary constraints a strategy sanctioning drug offenders with incarceration raises serious economic problems. The available data on drug offenders, even allowing for substantial error, produce numbers that are daunting when considered seriously as an enforcement target. For example, the number of cocaine users is estimated by the U.S. Attorney General to be comprised of two to three million addicts plus about six million once a month users¹. Another source estimates the number of marijuana users at around 20 million². Consequently, sanctioning offenders with incarceration would add to the already serious budgetary deficit and/or increase the pressures on a prison system that has been characterized as being out of control³.

However, the Bush Administration strategy envisions minimizing these pressures by increased use of monetary fines, both criminal and civil for users⁴. The use of civil fines is a completely new initiative and implementation has only recently started, but this promises to raise both practical and legal issues^{5 6}.

1 U.S. Attorney General, (August, 1989), p. 7

2 Reuter and Kleiman, (1986), p. 292

3 Blumstein (1988)

4 U.S. President, (1989), p. 63

5 U.S. Attorney General, (December 1989), p. 51206

6 Cloud, (1989) p. 809

The Anti-Drug Abuse Act of 1986 provides strong sanctions for simple drug possession offenses in the form of mandatory minimum fines with an additional possibility of prison time. Persons convicted of a simple possession offense with no prior drug-related convictions must be fined not less than \$1,000 and may also be sentenced to not more than one year in prison. Persons who have one prior, final federal or state drug-related conviction must be sentenced to a mandatory minimum term of imprisonment of 15 days (up to a maximum of two years) and must be fined not less than \$2,500. Persons who have two or more prior, final drug-related convictions must be sentenced to a minimum of 90 days in prison (up to a maximum of three years) and must be fined not less than \$5,000⁷.

Replacing incarceration at the margin with fines is an attractive policy provided that these fines can be enforced at reasonable costs and that they have a deterrent effect. If fine enforcement is weak, this policy initiative will become yet one more example of shooting blanks in the War On Drugs. Consequently, it is crucial that all of the relevant issues related to the use of fines for sanctioning users be analyzed.

It is important to note that this new policy on the use of drug fines is being introduced notwithstanding an almost complete absence of a body of knowledge which addresses most of the central questions:

- What is the current enforcement success -- percent actually collected --of fines for drug offenses?
- What are the most important determinants of drug fine collection success ?

⁷ The Anti-Drug Abuse Act of 1988 removed ceilings on mandatory fines that were enacted by The Anti-Drug Abuse Act of 1986 providing further scope for punitive fines.

- What resources are needed to achieve a satisfactory enforcement success for drug fines?
- What is the recidivism rate for drug offenses when sanctioned by a fine?
- What enforcement techniques are the most successful?
- What role should drug fines have in overall sentencing policy relative to drug treatment, relative to incarceration, relative to community service?

The published scholarly research analyzing drug fine enforcement success in the United States is very limited⁸. However, the Vera Institute has published a valuable series of studies but dealing with fine use for all criminal offenses, court administration of fines, and fine policy issues⁹.

This study addresses the first two issues listed above using a sample of drug offense cases taken from the Federal District Courts. The goal is to explain the variation in fine collection success for drug offenses. Section II explains the theoretical framework that guided the selection of variables included in the regression analysis; Section III describes the data used in the analysis, Section IV reports the results of the analysis and Section V contains the conclusions of the study.

II Theoretical Framework:

⁸ See Cole, 1989 for a study of innovations in fine collection and Gillespie(1988-89) for a study of fine collection success.

⁹ Hillsman, Sally T. et.al.,(1988) and the references cited therein for a complete bibliography of the literature dealing with fine issues; also the symposium on Fines and Fine Administration in The Justice System Journal, 13:Spring 1988.

The focus of this study is fine enforcement success as measured by the percent of fine paid at the time the offender was released from the criminal justice system, end of parole or probation. Fine enforcement success is assumed to be determined by three broad concepts; taken together these concepts encompass all operative factors which determine fine enforcement success for an individual. We assume that these concepts operate independently. These concepts are: (i) Ability To Pay and (ii) Willingness To Pay (iii) Enforcement Effort by the criminal justice system. The rationale for each concept and the specific variables used to measure it are explained next.

A. Ability to Pay:

Ability to pay is captured in part by economic variables descriptive of the individual's financial condition. These would include, after-tax income, net worth, and minimum non-discretionary expenditures, e.g., food, shelter, medical expenses, etc.. The contribution of financial condition to ability to pay must be evaluated in relation to the size of the fine imposed as does the Swedish 'dayfine' concept. In Swedish law fines are explicitly specified in terms of 'dayfines' not absolute monetary values. One dayfine is roughly one day of discretionary income. After the sentence has been given in dayfines, the offender's income is used to convert the sentence to a monetary fine. We use this process in reverse; the fine and offender's income are used to compute the dayfine equivalent.

In addition to dayfines we use two additional variables to measure an offender's ability to pay.

Number of Dayfines: The fine and reported average monthly income are transformed into a number of dayfines [$\text{Dayfines} = (\text{Fine} / \text{Monthly Salary}) * 30$]. The larger the number of dayfines, the smaller the predicted ability to

pay. To the extent that reported income is either incorrectly reported or that discretionary income varies significantly across individuals with the same reported income, this proxy measure will incorporate an error. Since many of the offenders in the sample have been convicted for drug dealing, manufacture, or importing it is reasonable to infer that their reported income and net worth will be under reported causing the computed dayfines to systematically under estimate ability to pay.

In order to capture any non-linearity in the effect of dayfines on ability to pay, dayfines were transformed into size categories and each category assigned a dummy variable with a value of one assigned to the category in which the number of dayfines fell. The lowest category was omitted from the equation; its effect is implicitly incorporated into the intercept term. The categories used were:

Dummy Variable:	Dayfine range:
DDAYFIN0	1 - 25 -- omitted category.
DDAYFIN1	26 - 50
DDAYFIN2	51 - 100
DDAYFIN3	101 - 150
DDAYFIN4	151 - 200
DDAYFIN5	201 - 300
DDAYFIN6	301 - 400
DDAYFIN7	401 - 500
DDAYFIN8	501 - 1000
DDAYFIN9	> 1001

Mandatory drug treatment: In some cases the offender's sentence included mandatory participation in a drug treatment program. It is assumed that such a condition would be imposed only if the offender was suffering from severe drug dependence. Such dependence would impact adversely on an individuals income earning capacity and thus reduce their ability to pay a fine. However, if the treatment program were effective,

earning capacity would be improved but most likely only in the longer term. A dummy variable is assigned the value of one if the offender was required to participate in drug treatment. The sign will indicate whether the effect of past drug dependence dominates any positive effect of drug treatment on fine payment during the period of supervision.

Employment History: Data are available on the number of months the offender was employed during the 12 months prior to the offense. This is transformed into a dummy variable which is assigned the value of one if the offender was employed for nine or more months during this 12 month period. The predicted sign of this variable is positive.

B. Willingness to Pay:

The second concept central to the analysis, willingness to pay, is conceptually more complex than ability to pay. Willingness to pay includes both an offenders value system and the offender's opportunity cost of not paying the fine. Willingness to pay a fine may differ across offenders, given the same ability to pay and the same enforcement effort. To the extent that the offender holds values that significantly differ from the established social order or feels oppressed by society, e.g. racial or political oppression, other things equal, he will have little willingness to pay although sufficient enforcement effort may still compel payment. Even if the offender identifies in general with the social order, he may feel it is unjust to impose sanctions for the instant offense, e.g. simple possession of marijuana or that the size of the sanction is unjust and for this reason lack a willingness to pay.

The opportunity cost of not paying a fine includes the social and economic costs of prolonged involvement with the criminal justice system. It is hypothesized that drug offenders with high social and licit economic

status will suffer costs that continue as long as they are actively involved the criminal justice system. They can shorten this involvement, e.g. early release from probation, if they comply promptly with all conditions of probation including paying any fine. The predicted sign is positive.

An offenders willingness to pay is measured by the following variables.

Age of the offender. The widespread use of illicit drugs is a relatively recent social phenomena. There clearly appears to more tolerance of illicit drug use by younger generations than by older generations, that is younger offenders are less likely to view drug offenses as a crime in a moral sense. If this difference in values is strong, younger offenders will be less willing to pay and the age variable should be significantly positive.

Race of the offender: If members of racial minorities feel that they are the victims of racial prejudice they will not see the existing social order as supporting their interests. Consequently, the opportunity costs of non-compliance with any sanction will be lower than that for a white member of society. This should reduce their willingness to pay a fine. The race of the offender is introduced into the analysis by a dummy variable which is assigned a value of 1 if the offender is non-white and a zero otherwise.

Number of prior drug offenses: A history of illicit drug use indicates that the offender has not been dissuaded from use by sanctioning. We interpret this to mean the offender will have a low willingness to pay. However, offenders with prior records may be subject to greater enforcement pressure than first offenders. Consequently, the predicted sign of this is ambiguous..

Education: The more formal education an offender has, the more costly, in terms of employment opportunities, is prolonged involvement with the criminal justice system. The threat of imprisonment or even a probation violation for non-payment of a fine would have significant opportunity costs for offenders with high educational attainment. Consequently, the higher the level of educational attainment the more likely a fine will be paid for any given level of ability to pay. Educational attainment is measured in terms of a dummy variable. The variable is assigned a value of 1 if the offender has is college graduate, a zero otherwise. About 14% of offenders in the sample have a bachelor or higher college degree.

Type of Drug Offense: The drug offenses in the sample are one of four types: importing, dealing, manufacturing, on possession only. It is assumed that those involved in supplying drugs do so in full knowledge that this activity is criminal. Consequently, it is assumed that their willingness to pay would be much less than an offender convicted of only possession without intent to distribute. A dummy variable is defined to distinguish drug dealing offenses from drug possession for use only; it is assigned a value of 1 if the offense was drug use and zero otherwise. However, individuals convicted of drug dealing may be subjected to greater enforcement pressure than those convicted only of possession. Consequently, the predicted sign of this variable is theoretically ambiguous.

C. Enforcement Effort:

The third concept used to organize the analysis is the post sentencing enforcement actions of the criminal justice system. The authorities can be expected to 'produce' more enforcement success the more resources devoted

to enforcement and the more efficient the technology used, e.g., the available legal powers for enforcement.

Evidence from congressional hearings suggests that there has been a problem in the federal district courts both with the administration of the enforcement efforts and the available technology -- legal powers. Recognition of both problems resulted in the passage of the Fine Enforcement Act of 1984. This act sought to both clarify the assignment of institutional responsibility for fine enforcement between the federal courts and the Department of Justice and to provide greater legal powers to enforce payment. The most powerful enforcement tool -- the threat of incarceration-- has been vitiated by decisions of the Supreme Court. In effect, incarceration is only possible if it can be proved that the failure to pay was willful, i.e., that the ability to pay exists. For many offenders, such proof would be difficult to establish in court. Consequently, the costs to the criminal justice system of making a threat of incarceration credible is so high as to precludes its routine use; other tools must be used.

The literature on other fine enforcement methods and their effectiveness is very limited. However, the literature does suggest that in many jurisdictions there may be unexploited opportunities to increase fine enforcement at relatively small cost. Although every U.S. attorney's office and every district court are bound by the same federal laws, there are still be opportunities for differential enforcement efforts within districts. The allocation of resources -- budget-- among fine enforcement or other prosecution activities may vary among districts. Also, the enforcement efficiency, given identical resources, may differ among the districts. However, the variables available in the data set offer only

limited means of measuring differential enforcement effort among districts. Only one crude effort could be made to capture such inter-district differences.

Enforcement effort differs between cases even within a district. Indeed enforcement effort is likely to show greater variation between cases within a district than between districts. All offenders in the sample were under post-sentencing supervision; one goal of this supervision would be fine enforcement. There were two forms of supervision -- probation and parole. Both the length of supervision and type of supervision were used as proxies for fine enforcement effort.

The effect of enforcement effort is captured by the following specific variables.

Size of district drug fine caseload: Cases in the sample originated in 86 districts. However, the distribution was asymmetric. The four districts with the largest number of cases accounted for 22% of all cases. A dummy variable was created to identify these "big caseload districts". It was assigned a value of 1 if the case originated in these four districts and a zero otherwise. No a priori prediction as to the expected sign of this variable is possible. Size of caseload could affect enforcement effort in opposing ways. Large case loads could result in lower (or higher) levels of resources per case and thus lower (increase) enforcement success. There could also be economies of scale in the technology which could lead to improved enforcement success as caseload increased even though the average amount of resources per case declined.

Length of supervision: Because the impact of the length of supervision could be non-linear it was introduced through two dummy variables. One dummy was assigned the value one if the supervision periods between 13 and

24 months and a zero value otherwise. A second dummy variable was assigned the value of one for periods of 25 or more months and a zero value otherwise. The estimates for each of these two dummy variables are to be interpreted as showing the effect on fine enforcement success of either period relative to a supervision period of 1 to 12 months.

Type of supervision: A dummy variable was assigned a value of one if the type of supervision was probation and a zero otherwise. No a priori sign is predicted for this variable.

Prison Term: Over half of the sentences included a prison term in addition to a fine. A prison term was introduced into the model through a dummy variable which was assigned the value of one if the sentence included a prison term. In theory the effects of a prison term on fine enforcement success could operate through all three of the mechanisms in the framework. A prison term could reduce the offender's ability to pay the fine; it could also reduce an offender's willingness to pay because the prison term has reduced the opportunity cost of non-payment. Finally, the prison term would make the offender less responsive to enforcement efforts. All three effects operate in the same way -- to reduce the predicted amount of fine that will be collected -- consequently the predicted sign for this variable is negative.

The hypothesized effect of the independent variables on fine enforcement success and the operative processes are summarized in Table 1 below:

Table 1

<u>Variable:</u>	<u>Predicted</u> <u>Ability</u> <u>to Pay:</u>	<u>Effect of Variable Through:</u> <u>Willingness</u> <u>to Pay:</u>	<u>Enforcement</u> <u>Effort:</u>	<u>Overall</u> <u>Predicted:</u> <u>Sign:</u>
Ability to Pay:				
Number of Dayfines	(-)	nil	nil	(-)
Drug Treatment	?	nil	nil	?
Employment History	(+)	nil	nil	(+)
Willingness to Pay:				
Age	nil	(+)	nil	(+)
Non-White Race	nil	(-)	nil	(-)
Prior Drug Offense	nil	(-)	(+)	?
Education Level	nil	(+)	(+)	(+)
Drug Dealing	(+)	(-)	(+)	?
Enforcement Effort:				
Fine Case Load	nil	nil	?	?
Length of Supervision	nil	nil	(+)	(+)
Type of Supervision	nil	nil	(?)	(?)
Prison Term	(-)	(-)	(-)	(-)

III The Data:

The cases are drawn from federal district court cases where supervision began during the period 1983 to 1988. The cases used in the analysis were selected using the following criteria:

- (i) The most serious charge was a drug offense: importing, dealing, manufacturing, or possession.
- (ii) The offense was either a felony or serious misdemeanor
- (iii) A fine of at least \$500 was part of the sentence.
- (iv) Supervision, probation or parole, was part of the sentence and the period of supervision was completed.
- (v) The reported average monthly salary during the 12 months prior to sentencing was greater than zero.

The decision to omit cases with fines less than \$500 was based on the assumption that the fine should not be trivial. Limiting the cases to those where supervision was imposed was necessary because of data limitations. The database did not contain any post sentencing data except for cases involving supervision. Consequently, information on the amount of the fine that was paid was available only for supervision cases. At the end of supervision, the total amount paid was entered into the database. If the monthly salary were zero, the number of dayfines would be indeterminate. These criteria produced a sample of 2,002 cases; however, missing data reduced this to a useable sample of 1,970 cases.

The variables used in the analysis and related summary statistics are given in Table 2. The table gives the average percent of fine paid within the groups used in the regression analysis. For the sample the average percent of the fine paid was 62%. However, this average conceals a wide variation in percent paid among sub groups. For example, only 22% of fines which converted to 1,000 or more dayfines. At the other extreme, the average payment was 83% for fines equivalent to dayfines in the range of 1 to 25. In principle, all of the variables contribute to the amount paid in a given case. To evaluate their contributions, holding all other factors constant, multiple regression analysis was used. We now turn to the results of this analysis.

Table 2

Variables and Sample Statistics

<u>Variable/Category:</u>	<u>Average</u> <u>% Paid</u>	<u>N</u>	<u>% of</u> <u>Sample</u>
Total Sample	62%	1,970	100%
DDAYFIN0 Dayfines: >0 - 25	83%	460	23%
DDAYFIN1 Dayfines: 26 - 50	70%	420	21%
DDAYFIN2 Dayfines: 51 - 100	64%	356	18%
DDAYFIN3 Dayfines: 101 - 150	52%	220	11%
DDAYFIN4 Dayfines: 151 - 200	44%	104	5%
DDAYFIN5 Dayfines: 201 - 300	46%	163	8%
DDAYFIN6 Dayfines: 300 - 400	50%	54	3%
DDAYFIN7 Dayfines: 401 - 500	35%	58	3%
DDAYFIN8 Dayfines: 501 - 1000	30%	74	4%
DDAYFIN9 Dayfines: > 1000	22%	55	3%
DTREATDR =1 If Drug Abuse Treatment Was Required	62%	283	14%
DBEGEMPL =1 If Employed 4 Or More Months In 12 Mo	63%	1,804	91%
AGE Age In Years When Supervision Started.	37 yrs=mean		100%
DRACE =1 If Race Is Non-white	51%	477	24%
DPRDRUG =1 If One Of More Prior Drug Offenses	56%	271	13%
DDROFUSE =1 If Offense Was Drug Use Only	77%	465	24%
DBEGEDLV =1 If College Graduate	71%	277	14%
DBIGDIST =1 If District Had Big Drug Case Load	58%	442	22%
DSUPV0 =1 If 1 - 12 Months Supervision	51%	622	32%
DSUPV1 =1 If 13 - 24 Months Supervision	61%	612	31%
DSUPV2 =1 If 25 Or More Months Supervision	74%	710	36%
DPROBAT =1 If Supervision Type Was Probation	81%	1,095	56%
DPRIS =1 If Sentence Included Prison Term	48%	1,133	58%

IV Statistical Results:

The results of the regression analysis are reported in Table 2. The estimates for dummy variables are the increase or decrease in the predicted percent of fine paid produced by the characteristic when the dummy variable has a value of one. As an example, consider an offender age 20 whose fine and monthly income converted to 15 dayfines, who was sentenced to a prison term and six months parole supervision. His characteristics caused all other dummy variables to be zero. The equation predicts that he will pay 44.48% ($=46.99+.23 \times 10 - 4.81$) of his fine. However, if he was not sentenced

to prison but only to 6 months probation supervision, his predicted payment would be 77.38% ($=46.99+.23 \times 10+28.09$).

The ability to pay variables all have the predicted sign and all but the one are strongly statistically significant. It should be noted that there was some ambiguity as to the predicted sign for mandatory drug treatment. The results support the conjecture that drug dependence, as evidenced by mandatory drug treatment, reduced the predicted fine payment by over 7 percentage points. If drug treatment improved the offenders economic condition, this improvement came after the period of supervision ended. These results do not provide a basis for any conclusions as to the desirability or efficacy of mandatory drug treatment. The employment history was not statistically significant; however, the effect of employment may have been picked up by the salary information incorporated in the dayfine variable dummies.

One would expect that the ability to pay would decline continuously as the number of dayfines increased. This did not happen uniformly, that is the estimates for the dayfine categories did not become increasingly negative as the number of dayfines increased. This pattern was followed only by categories 1 to 4 and 8 to 9. There is no obvious explanation why fines in categories 5 and 6 had higher percentage payment than categories with lower number of fines.

Among the willingness to pay variables there was an unambiguous theoretical prediction of sign for three of them: age, race, and educational attainment. The results conformed to the predicted signs and all three were statistically significant. Fine payment increased with age and educational attainment but decreased for offenders who were non-white. The two variables with an ambiguous sign prediction: prior drug conviction

and a conviction for drug possession rather than drug dealing were not statistically significant. In a sense, this conforms to the prediction because each variable was predicted to have different effects on payment through different processes. These opposing effects could cancel each other rendering the overall effect of the variable non-significant.

Enforcement effort included two variables with theoretically predicted signs: length of supervision and prison term. Length of supervision was measured by two dummy variables, both had the predicted positive sign and were statistically significant. Also, the effectiveness of over 25 months of supervision was double that of 13 to 24 months of supervision. The prison term was negative as predicted but not statistically significant. The type of supervision was both statistically significant and strongly positive in effect, that is, probation supervision added 28 percentage points to fine payment relative to parole supervision. However, the prison variable and supervision variable results are to a degree confounded because of the correlation between these variables was $-.74$. In the sample when a probation sentence included a prison term, the term was shorter than the average in the sample. Similarly, parole supervision is always in conjunction with a prison sentence and the length of the prison sentence of parolees is longer than probation prison sentences. The size of the district drug fine case load was not statistically significant. This does not prove the absence of a district effect on fine enforcement success; more district specific information is needed to capture any such an effect.

TABLE 3

Regression Model of Fine Enforcement Success:

Dependent Variable: PPAID - Percent of fine paid

<u>Parameter:</u>	<u>Estimate:</u>	<u>T Value:</u>	<u>Variable Definition:</u>
INTERCEPT	46.99	7.77	
Ability to Pay:			
DDAYFIN1	-9.83	-3.72	(=1 if Dayfines: 26 - 50)
DDAYFIN2	-11.55	-4.07	(=1 if Dayfines: 51 - 100)
DDAYFIN3	-16.73	-4.95	(=1 if Dayfines: 101 - 150)
DDAYFIN4	-24.21	-5.52	(=1 if Dayfines: 151 - 200)
DDAYFIN5	-19.85	-5.20	(=1 if Dayfines: 201 - 300)
DDAYFIN6	-12.99	-2.23	(=1 if Dayfines: 300 - 400)
DDAYFIN7	-32.82	-5.85	(=1 if Dayfines: 401 - 500)
DDAYFIN8	-30.08	-5.82	(=1 if Dayfines: 501 - 1000)
DDAYFIN9	-36.55	-6.25	(=1 if Dayfines: > 1000)
DTREATDR	-7.19	-2.80	(=1 if drug abuse treatment was required)
DBEGEMPL	0.98	0.31	(=1 if employed > 3 months in last 12 mo)
Willingness to Pay:			
AGE	.0.23	2.52	(Age in years when supervision began)
DRACE	-13.12	-6.09	(=1 if race is non-white)
DPRDRUG	0.11	0.05	(=1 if one of more prior drug offenses)
DBEGEDLV	6.81	2.62	(=1 if college graduate)
DDROFUSE	1.97	0.77	(=1 if drug offense was drug use only)
Enforcement Effort:			
DBIGDIST	-1.12	-0.51	(=1 if district had big drug case load)
DSUPV1	8.77	3.92	(=1 if 13 - 24 months supervision)
DSUPV2	15.57	6.75	(=1 if 25 or more months supervision)
DPROBAT	28.09	9.59	(=1 if supervision type was probation)
DPRIS	-4.81	-1.77	(=1 if sentence included prison term)

(1,970 Observations)			

V Conclusions:

The statistical results provide strong support -- signs and statistical significance -- for the theoretical model of determinants of fine enforcement success. However, the overall performance of the model was modest, the equation explained only 28% of the variance of the percent of fine paid around the sample mean of 62%. This notwithstanding, there are some implications for policy that can be drawn.

It is useful to consider from a policy perspective the results for each of three theoretical processes which jointly determine the predicted percent of fine paid. Two of these processes are directly controlled by criminal justice policy. The ability to pay was primarily determined by two variables: the number of dayfines and mandatory drug treatment. If judges have sufficient authority in setting the monetary fine, they can then use the offender's income to compute dayfine equivalents for any fine. The number of dayfines can then be used to evaluate the payment prospects of the fine before they impose it. Similarly, judges would do well to consider whether offenders have serious drug dependency problems in using a fine.

The other process which is directly affected by policy is enforcement effort. The two important variables here are the length of supervision and whether a prison sentence accompanies the fine. Again these variables are determined in the sentencing process. If an analysis of fine payment shows a low prospect for payment, one alternative sentence would be community service hours. This is in effect a fine paid in kind. Not only

is ability to pay unimportant, it is also easier to force compliance. It is much easier to establish willful failure to perform community service than willful failure to pay a fine. Consequently, the threat of incarceration for violating the sentence is much more credible.

The last process -- willingness to pay -- contains variables which are already determined at the time of arrest or sentencing. They are determined exogenously to the criminal justice system. It is of interest to know the relative importance of the policy controlled variables and the willingness to pay variables in explaining the variance of fine payment in the sample. To evaluate this importance, the equation was re-estimated with all five of the variables measuring willingness to pay omitted. The resulting equation explained 26% of the variation compared to 28% when all variables were included. This insignificant drop in explanatory power indicates that policy variables are the most important.

The primary conclusion of this study is that if fines are to be used to replace incarceration, at least marginally, payment of the fine need not be a barrier to this change, provided that fine sentencing takes proper account of the relevant variables¹⁰. When these variables indicate that a fine of a size sufficient to constitute a just penalty will not be paid, then community service or incarceration should be considered as an alternative sentence.

¹⁰ See Greene, 1988, for a broad discussion of the issues relating to an expanded use of fines.

References

- Blumstein, Alfred "Prison Populations: A System Out of Control?", Crime and Justice: An Annual Review of Research, Vol. 10, University of Chicago Press, 1988
- Casale, Silvia S.G and Sally T. Hillsman, Enforcement of Fines as Criminal Sanctions: The English Experience and Its Relevance to American Practice, National Institute of Justice, Washington, 1986
- Cole, George "Innovations in Collecting and Enforcing Fines" NIJ Reports, July/August 1989, No. 215, pp. 2-5
- Cole, George, Barry Mahoney, Marlene Thornton and Roger Hanson, Practices and Attitudes of Trial Court Judges Regarding Fines as a Criminal Sanction, National Institute of Justice, Washington, 1988, 71 pp.
- Gillespie, Robert W. "Criminal Fines: Do They Pay", Justice System Journal, 13:3(1988-89), pp. 365-378
- Gillespie, Robert W. "Fines As Alternative To Incarceration: The German Experience" Federal Probation, Vol.44, No.4 (December 1980), pp. 20-26
- Gillespie, Robert W. "Sanctioning Traditional Crimes With Fines: A Comparative Analysis", International Journal of Comparative and Applied Criminal Justice, 5:2, pp. 197-204
- Greene, Judith A. "Structuring Criminal Fines: Making an 'Intermediate Penalty' More Useful and Equitable" Justice System Journal 13:1, Spring 1988, pp. 37-50
- Hillsman, Sally T. "The Growing Challenge of Fine Administration to Court Managers" Justice System Journal 13:1, Spring 1988, pp. 5-16
- Hillsman, Sally T. and Barry Mahoney "Collecting and Enforcing Criminal Fines: A Review of Court Practices, and Problems" Justice System Journal 13:1, Spring 1988, pp. 17-36
- Hillsman, Sally T., Barry Mahoney, George F. Cole, and Bernard Auchter Fines as Criminal Sanctions, National Institute of Justice: Research in Brief, September 1987
- Hillsman, Sally T., Joyce L. Sichel, and Barry Mahoney, Fines in Sentencing: A Study of the Use of Fines as a Criminal Sanction, National Institute of Justice, Washington, 1984 , 341 pp.
- Mahoney, Barry and Marlene Thornton "Means-Based Fining: Views of American Trial Court Judges" Justice System Journal 13:1, Spring 1988, pp. 51-63
- Morris, Norval and Michael Tonry "Between Prison and Probation -- Intermediate Punishments in a Rational Sentencing System", NIJ Reports, Jan/Feb 1990, No. 218, pp. 8-10

Reuter, Peter and Mark A. R. Kleiman, "Risk and Prices: An Economic Analysis of Drug Enforcement", Crime and Justice: An Annual Review of Research, Vol.7, University of Chicago Press, 1986

U.S. Attorney General, "Implementation of Civil Penalties Under Anti-Drug Abuse Act of 1988", Federal Register, 54:238, December 13, 1989, p. 51206

U.S. General Accounting Office After the Criminal Fine Enforcement Act of 1984 - Some Issues Still Need to Be Resolved, Washington, D.C., 1985, 57 pp.

U.S. House, Committee on the Judiciary, Criminal Fine Enforcement Hearings, August 3, 1983 and March 29, 1984 (Serial No. 47). Washington: Government Printing Office, 1984

U.S. House. Committee on the Judiciary. Criminal Fine Improvements Act of 1987 (H.Rpt. No. 100-390). Washington: Government Printing Office, 1987

U.S. House. Committee on the Judiciary. Criminal Fine Enforcement Act of 1984 (H.Rpt. 98-906). Washington: Government Printing Office, 1984

U.S. President, National Drug Control Strategy, January 1990, Washington, D.C.

U.S. President, National Drug Control Strategy, September 1989, Washington, D.C.

U.S. Senate, Committee on Governmental Affairs. Collection of Criminal Fines Hearings, August 3, 1983 (S.Hrg. 98-561) Washington, Government Printing Office, 1984

U.S. Senate. Committee on Governmental Affairs. Collection of Criminal Fines (S.Prt. 98-182). Washington, Government Printing Office, 1984

U.S. Senate. Committee on Governmental Affairs. Collection of Criminal Fines (S.Prt. 98-182). Washington, Government Printing Office, 1984

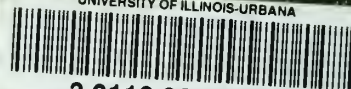
HECKMAN
BINDERY INC.



JUN 95

Bound To Please® N. MANCHESTER,
INDIANA 46962

UNIVERSITY OF ILLINOIS-URBANA



3 0112 060295901